

1 Ian N. Feinberg (SBN 88324)
ifeinberg@mayerbrown.com
2 Eric B. Evans (SBN 232476)
eevans@mayerbrown.com
3 MAYER BROWN LLP
4 Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, CA 94306-2112
5 Telephone: (650) 331-2000
Facsimile: (650) 331-2060

6 Attorneys for Plaintiff
7 FREECYCLESUNNYVALE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

12
13 FREECYCLESUNNYVALE,
a California unincorporated association,

14 Plaintiff,

V.

16 THE FREECYCLE NETWORK,
an Arizona corporation,

Defendant.

| CASE NO. C06-00324 CW

**[PROPOSED] STIPULATED FINAL
JUDGMENT**

19 THE FREECYCLE NETWORK, INC., an
Arizona Corporation,

Counterclaimant,

V.

22
23 FREECYCLESUNNYVALE, a California
unincorporated association,

Counterdefendant.

1 Plaintiff FreecycleSunnyvale (“Sunnyvale”) and Defendant The Freecycle Network, Inc.,
2 stipulate and agree that judgment be entered as follows:

- 3 (1) Final judgment is entered in Sunnyvale’s favor on:
4 a. Sunnyvale’s First Claim for Relief for Declaratory Judgment of Non-
5 Infringement of Trademarks under 15 U.S.C. § 1051 *et seq.*;
6 b. The Freecycle Network’s Counterclaim for Trademark Infringement under the
7 Lanham Act, 15 U.S.C. § 1125(a);
8 c. The Freecycle Network’s Counterclaim for Unfair Competition under the
9 Lanham Act, 15 U.S.C. § 1125(a)
10 for the reasons set forth in the Order Granting in Part Plaintiff’s Motion for
11 Summary Judgment and Denying It in Part and Granting Defendant’s Motion to
12 Strike (“Order”). Dkt. no. 141.
13 (2) Sunnyvale’s Second Claim for Relief for Tortious Interference with Business
14 Relations is dismissed with prejudice.
15 (3) The Freecycle Network’s Counterclaim for Unfair Competition under the
16 California Business and Professions Code, Cal. Bus. & Prof. Code §§ 17200 and
17 17500, is dismissed with prejudice
18 (4) Each side shall bear its costs and fees of suit and neither side shall be considered a
19 prevailing party for purposes of Fed. R. Civ. P. 54(d)(1).

20 ///

21 ///

22 ///

23

24

25

26

27

28

1 The purpose of this judgment is to allow The Freecycle Network to appeal this judgment
2 to the U.S. Court of Appeals for the Ninth Circuit. For the avoidance of doubt, neither side shall
3 seek to appeal from the stipulated dismissal of claims described in (2) & (3) above.

4 Dated: May 15, 2008

MAYER BROWN LLP

IAN N. FEINBERG

ERIC B. EVANS

BY: /s/ Ian N. Feinberg

 Ian N. Feinberg

7 Dated: May 15, 2008

8 Attorneys for Plaintiff
9 FREECYCLESUNNYVALE

10 KING & SPALDING LLP
11 LISA KOBIALKA

12 By: /s/ Lisa Kobialka
13 _____
14 Lisa Kobialka

15 Attorneys for Defendant
16 THE FREECYCLE NETWORK, INC.

17 *Filer's Attestation: Pursuant to General Order No. 45, Section*
18 *X(B), the filer hereby attests that the signatories' concurrence in*
19 *the filing of this document has been obtained.*

20 For the reasons set forth in this Court's Order of March 13, 2008, Docket no. 141,
21 and upon stipulation of the parties,

22 IT IS SO ORDERED, ADJUDGED, AND DECREED.

23 Dated: 5/20/08

24 _____
25 Hon. Claudia Wilken
26 U.S. District Judge

